

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

Return date: 10/6/10 at 9:30 a.m.

-----X
In the Matter of

ERNEST BAUMGARTEN,

Chapter 7
Case No. 810-71995-reg

Debtor.
-----X

NOTICE OF MOTION

PLEASE TAKE NOTICE that upon the affirmation of Stacy Spector, Esq. dated August 26, 2010, and upon all prior proceedings heretofore had herein, the undersigned will move this court, before the Honorable Robert E. Grossman, at the United States Bankruptcy Court, Long Island Federal Courthouse, 290 Federal Plaza, Room 860, Central Islip, New York, on the 6th day of October, 2010, at 9:30 a.m. or soon thereafter as counsel can be heard, for an Order:

(a) pursuant to 11 U.S.C. Section 363(b) and Bankruptcy Rule 6004, authorizing the trustee to sell to Betty Baumgarten Nagor the estate's right, title and interest in real property located at 621 N.W. 61st Avenue, Apt. 310, Tamarac, Florida, for the sum of \$4,000.00, subject to any and all liens, encumbrances, claims or other interests which may exist;

(b) authorizing the trustee to pay all reasonable, customary, and necessary costs, disbursements, and expenses necessary to convey title to the Property;

(c) authorizing the trustee to execute any documents necessary to effectuate the sale of the estate's right, title and interest in the real property; and

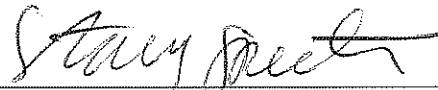
(d) for such other and further relief as this Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the relief requested must be in writing, must conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of this Court, must be filed electronically in accordance with General Order #462 (which can be found at the Court's official website, www.nyeb.uscourts.gov) by registered users of the Bankruptcy Court's electronic filing

system, and by all other parties in interest on a 3.5 inch computer disk in Portable Document Format (PDF), Corel WordPerfect, Microsoft Word, DOS text or a scanned image file with an accompanying hard copy to Chambers of the Honorable Robert E. Grossman United States Bankruptcy Judge, at the above address together with proof by affidavit, admission or otherwise that copies have been properly served. Objections, if any, must be served upon: (i) the undersigned counsel for the trustee; and (ii) the United States Trustee, Long Island Federal Courthouse, 560 Federal Plaza, Central Islip, New York 11722 so as to actually be received no later than 5:00 p.m. on September 29, 2010, or the relief requested may be granted as unopposed.

Dated: Garden City, New York
August 26, 2010

KIRSCHENBAUM & KIRSCHENBAUM, P.C.
Attorneys for the Trustee

By: 

Stacy Spector, Esq.
200 Garden City Plaza
Garden City, NY 11530
(516) 747-6700

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

-----X

In the Matter of

ERNEST BAUMGARTEN,

Debtor.

-----X

Chapter 7

Case No. 810-71995-reg

AFFIRMATION

Stacy Spector, an attorney duly admitted to practice in the courts of the State of New York, and in this Court, affirms the following to be true under penalty of perjury:

1. I am associated with the law firm of Kirschenbaum & Kirschenbaum, P.C., attorneys for the Chapter 7 trustee, and I am fully familiar with the facts and circumstances set forth herein. This affirmation is being offered in support of the trustee's request for an order:

(a) pursuant to 11 U.S.C. Section 363(b) and Bankruptcy Rule 6004, authorizing the trustee to sell to Betty Baumgarten Nagor the estate's right, title and interest in real property located at 621 N.W. 61st Avenue, Apt. 310, Tamarac, Florida, for the sum of \$4,000.00, subject to any and all liens, encumbrances, claims or other interests which may exist;

(b) authorizing the trustee to pay all reasonable, customary, and necessary costs, disbursements, and expenses necessary to convey title to the Property;

(c) authorizing the trustee to execute any documents necessary to effectuate the sale of the estate's right, title and interest in the real property; and

(d) for such other and further relief as this Court may deem just and proper.

2. A voluntary petition pursuant to Chapter 7 of Title 11 of the United States Code was filed by the debtor on March 24, 2010 and Kenneth Kirschenbaum was appointed the Chapter 7 trustee in this proceeding, in which capacity he continues to serve.

3. Schedule A annexed to the debtor's petition reflects that at the time of filing the debtor held title to real property located at 621 N.W. 61st Avenue, Apt. 310, Tamarac, FL, which is unencumbered.

Based upon a review of the deed to the Property, it appears that the debtor owned this Property with his sister, Betty Baumgarten Nagor (“Ms. Nagor”), as tenants in common.

4. The trustee agreed to accept an offer from Ms. Nagor to purchase the estate’s interest in the Property for the sum of \$4,000.00, subject to Court approval. To that end, Ms. Nagor has transferred to the trustee the sum of \$4,000.00, which has been deposited into the estate account.

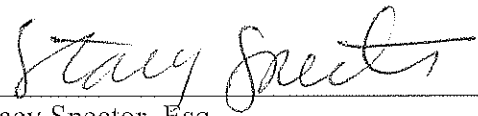
5. Based upon the Trustee’s independent investigation, he determined that the property has a value of approximately \$10,000.00-\$15,000.00. In performing a cost analysis, the Trustee determined that Ms. Nagor’s \$4,000.00 offer is fair and reasonable, and in the best interests of the creditors. If the trustee does not sell the estate’s interest in the property to Ms. Nagor, he would have to retain the services of a real estate broker or auctioneer to sell the estate’s interest in the Property, which would be costly and would further delay the administration of this estate. It would also be difficult to find parties interested in purchasing only a partial interest in the Property. The other alternative would be for the trustee to commence an adversary proceeding against Ms. Nagor pursuant to 11 U.S.C. § 363(h) seeking authorization to sell the estate’s interest and Ms. Nagor’s interest. Because of the uncertainty of succeeding in a 363(h) proceeding and the costs associated with marketing and selling the property to a third party (including, but not limited to, real estate broker’s fees, legal fees and expenses, increased trustee commissions and ordinary closing costs), and the anticipated delay of several months until the closing of title, acceptance of Ms. Nagor’s offer is in the best interests of the estate.

6. No prior application has been made to this Court or to any other court for the relief requested herein.

WHEREFORE, it is respectfully requested that the Court grant the instant application in its entirety.

Dated: Garden City, New York
August 26, 2010

KIRSCHENBAUM & KIRSCHENBAUM, P.C.
Attorneys for the trustee

By: 
Stacy Spector, Esq.
200 Garden City Plz, Ste. 500
Garden City, New York 11530
(516) 747-6700

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In the Matter of

ERNEST BAUMGARTEN,

Debtor.
-----X

Chapter 7

Case No. 810-71995-reg

STATE OF NEW YORK)

)SS.:

COUNTY OF NASSAU)

JENNIFER THOMPkins, being duly sworn, deposes and says:

I am not a party to the action, am over 18 years of age and reside at Brentwood, New York.

On September 3, 2010, I served a true copy of the annexed **NOTICE OF MOTION and AFFIRMATION** in the following manner:

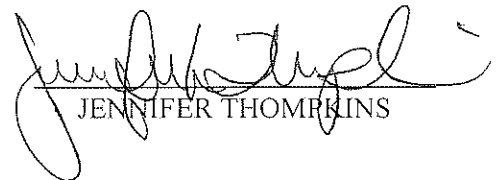
BY: Mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee(s) listed below:

See annexed list which represents all parties in interest.

Sworn to before me this
3rd day of September 2010



NOTARY PUBLIC


JENNIFER THOMPkins

Stacy Spector
Notary Public, State of New York
No. 02SP6164321
Qualified in Suffolk County
My Commission Expires April 16, 2011

David R. Maltz & Co., Inc.
155 Terminal Drive
Plainview, NY 11803

United States Trustee
Long Island Federal Courthouse
560 Federal Plaza
Central Islip, NY 11722-4437

American Express
PO Box 1270
Newark, NJ 07101-1270

American Express Bank FSB
c/o Becket and Lee LLP
POB 3001
Malvern PA 19355-0701

American Infosource LP as Agent for
Citibank (South Dakota) N.A.
PO Box 248840
Oklahoma City, OK 73124-8840

American Select
Distribution Center, Inc.
PO Box 1070
Elizabeth, NJ 07207

Bank of America
PO Box 150159
Wilmington, DE 19886-5019

CITI Advantage
PO Box 6062
Sioux Falls, SD

CITI Cards/Smith Barney
PO Box 44167
Jacksonville, FL 32231-41

Chase
PO Box 15153
Wilmington, DE 19886-5153

Chase Bank USA, N.A.
PO Box 15145
Wilmington, DE 19850-5145

Citibank Home Equity
1000 Technology Drive
O'Fallon, MO 63368-2240

HSBC Bank USA
PO Box 17332
Baltimore, MD 21297-7332

HSBC Bank USA
PO Box 2013
Buffalo, NY 14240

New York State
Workers Compensation Board
Bureau of Compliance
20 Park Street
Albany, NY 12207

Ravi Datwani
c/o Explore Sourcing, Inc
1385 Broadway
New York, NY 10018

Robert and Marjorie Lee
48 Bacon Road
Old Westbury, NY 11568

Sam Mesrie
3919 Bedford Avenue
Brooklyn, NY 11229

Samuel Mesrie
c/o: David Wander, Esq.
605 3rd Avenue, 34th Fl.
New York, New York 10158

US Small Business Administration
409 3rd Street, SW
Washington, DC 20416

Wachovia Bank, N.A.
1525 West W.T. Harris Blvd
Charlotte, NC 28262-8522

Dwight Yellen, Esq.
Ballon Stoll Bader & Nadler PC
729 Seventh Avenue, 17th Floor
New York, NY 10019

Ernest Baumgarten
14 Tuxedo Drive
Melville, NY 11747

Fia Card Services, NA/Bank of
America by American Infosource LP
as its Agent
PO Box 248809
Oklahoma City, OK 73124-8809

IRS
PO BOX 21125
PHILADELPHIA, PA 19114

Hot Stitch, LLC
c/o David Wander, Esq.
Davidoff Malito & Hutcher LLP
605 Third Avenue, 34th Floor
New York, NY 10158